

Introduced by Senator McClintock

February 9, 2006

An act to amend Sections 1513, 1513.5, 1514, 1515, 1516, 1518, 1519, 1520, and 1521 of the Code of Civil Procedure, relating to unclaimed property.

LEGISLATIVE COUNSEL'S DIGEST

SB 1259, as amended, McClintock. Unclaimed property.

(1) Existing law provides for the escheat to the state of abandoned property, including certain deposits, accounts, shares, or other interests with a banking or financial organization, business association, or other holder of personal property. Under existing law, the holder of abandoned property transfers the property to the Controller after the property is inactive for a period of 3 years, except as specified.

This bill would extend this 3-year period to provide that the holder transfers the abandoned property to the Controller after the property is inactive for a period of 7 years.

(2) Existing law requires a banking or financial organization, business association, or other holder of personal property, if it has in its records an address for the apparent owner, which the records do not disclose to be inaccurate, to make reasonable efforts to notify by mail any customer that the customer's deposit, account, shares, or other interest in the banking or financial organization will escheat to the state, as specified.

This bill would require a business association to send notice to the apparent owner of the contents of a safe deposit box or other

safekeeping repository that the owner's property may escheat to the state and may be subject to sale at auction.

(3) Existing law requires the notice regarding abandoned property to specify that since the last date of activity, or for the last 2 years, there has been no customer activity on the abandoned property, identify the abandoned property, indicate the danger of escheat to the state, and specify that the Unclaimed Property law requires the holder of the abandoned property to transfer the property to the Controller if the property has been inactive for a specified period.

This bill would, operative January 1, 2007, add to the required contents of these notices a statement in 14-point bold type that the abandoned property may escheat to the state. This bill would require the notice to specify that there has been no customer activity for 2, 4, or 6 years. This bill would permit the holder of the abandoned property to send notice to the apparent owner of the property from the date of last activity by or communication with the owner until the holder transfers the property to the Controller.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1513 of the Code of Civil Procedure is
2 amended to read:
3 1513. Subject to Sections 1510 and 1511, the following
4 property held or owing by a business association escheats to this
5 state:
6 (a) Except as provided in subdivision (f), any demand,
7 savings, or matured time deposit, or account subject to a
8 negotiable order of withdrawal, made with a banking
9 organization, together with any interest or dividends thereon,
10 excluding, from demand deposits and accounts subject to a
11 negotiable order of withdrawal only, any reasonable service
12 charges that may lawfully be withheld and that do not (where
13 made in this state) exceed those set forth in schedules filed by the
14 banking organization from time to time with the Controller, when
15 the owner, for more than seven years, has not done any of the
16 following:

1 (1) Increased or decreased the amount of the deposit, cashed
2 an interest check, or presented the passbook or other similar
3 evidence of the deposit for the crediting of interest.

4 (2) Corresponded electronically or in writing with the banking
5 organization concerning the deposit.

6 (3) Otherwise indicated an interest in the deposit as evidenced
7 by a memorandum or other record on file with the banking
8 organization.

9 A deposit or account shall not, however, escheat to the state if,
10 during the previous seven years, the owner has owned another
11 deposit or account with the banking organization and, with
12 respect to that deposit or account, the owner has done any of the
13 acts described in paragraph (1), (2), or (3), and the banking
14 organization has communicated electronically or in writing with
15 the owner, at the address to which communications regarding
16 that deposit or account are regularly sent, with regard to the
17 deposit or account that would otherwise escheat under this
18 subdivision. For purposes of this subdivision, “communications”
19 means account statements or statements of interest paid for
20 federal and state income tax purposes.

21 No banking organization may discontinue any interest or
22 dividends on any savings deposit because of the inactivity
23 contemplated by this section.

24 (b) Except as provided in subdivision (f), any demand,
25 savings, or matured time deposit, or matured investment
26 certificate, or account subject to a negotiable order of
27 withdrawal, or other interest in a financial organization or any
28 deposit made therewith, and any interest or dividends thereon,
29 excluding, from demand deposits and accounts subject to a
30 negotiable order of withdrawal only, any reasonable service
31 charges that may lawfully be withheld and that do not (where
32 made in this state) exceed those set forth in schedules filed by the
33 financial organization from time to time with the Controller,
34 when the owner, for more than seven years, has not done any of
35 the following:

36 (1) Increased or decreased the amount of the funds or deposit,
37 cashed an interest check, or presented an appropriate record for
38 the crediting of interest or dividends.

39 (2) Corresponded electronically or in writing with the financial
40 organization concerning the funds or deposit.

1 (3) Otherwise indicated an interest in the funds or deposit as
2 evidenced by a memorandum or other record on file with the
3 financial organization.

4 A deposit or account shall not, however, escheat to the state if,
5 during the previous seven years, the owner has owned another
6 deposit or account with the financial organization and, with
7 respect to that deposit or account, the owner has done any of the
8 acts described in paragraph (1), (2), or (3), and the financial
9 organization has communicated electronically or in writing with
10 the owner, at the address to which communications regarding
11 that deposit or account are regularly sent, with regard to the
12 deposit or account that would otherwise escheat under this
13 subdivision. For purposes of this subdivision, “communications”
14 means account statements or statements of interest paid for
15 federal and state income tax purposes.

16 No financial organization may discontinue any interest or
17 dividends on any funds paid toward purchase of shares or other
18 interest, or on any deposit, because of the inactivity contemplated
19 by this section.

20 (c) Any sum payable on a traveler’s check issued by a
21 business association that has been outstanding for more than 15
22 years from the date of its issuance, when the owner, for more
23 than 15 years, has not corresponded in writing with the business
24 association concerning it, or otherwise indicated an interest as
25 evidenced by a memorandum or other record on file with the
26 association.

27 (d) Any sum payable on any other written instrument on which
28 a banking or financial organization is directly liable, including,
29 by way of illustration but not of limitation, any draft or certified
30 check, that has been outstanding for more than seven years from
31 the date it was payable, or from the date of its issuance if payable
32 on demand, when the owner, for more than seven years, has not
33 corresponded electronically or in writing with the banking or
34 financial organization concerning it, or otherwise indicated an
35 interest as evidenced by a memorandum or other record on file
36 with the banking or financial organization.

37 (e) Any sum payable on a money order issued by a business
38 association (including a banking or financial organization), that
39 has been outstanding for more than seven years from the date it
40 was payable, or from the date of its issuance if payable on

1 demand, excluding any reasonable service charges that may
2 lawfully be withheld and that do not, when made in this state,
3 exceed those set forth in schedules filed by the business
4 association from time to time with the Controller, when the
5 owner, for more than seven years, has not corresponded
6 electronically or in writing with the business association,
7 banking, or financial organization concerning it, or otherwise
8 indicated an interest as evidenced by a memorandum or other
9 record on file with the business association. For the purposes of
10 this subdivision, “reasonable service charge” means a service
11 charge that meets all of the following requirements:

12 (1) It is uniformly applied to all of the issuer’s money orders.

13 (2) It is clearly disclosed to the purchaser at the time of
14 purchase and to the recipient of the money order.

15 (3) It does not begin to accrue until three years after the
16 purchase date, and it stops accruing after the value of the money
17 order escheats.

18 (4) It is permitted by contract between the issuer and the
19 purchaser.

20 (5) It does not exceed 25 cents (\$0.25) per month or the
21 aggregate amount of twenty-one dollars (\$21).

22 (f) Any funds held by a business association in an individual
23 retirement account or under a retirement plan for self-employed
24 individuals or similar account or plan established pursuant to the
25 internal revenue laws of the United States or of this state, when
26 the owner, for more than seven years after the funds become
27 payable or distributable, has not done any of the following:

28 (1) Increased or decreased the principal.

29 (2) Accepted payment of principal or income.

30 (3) Corresponded electronically or in writing concerning the
31 property or otherwise indicated an interest.

32 These funds are not payable or distributable within the
33 meaning of this subdivision unless, under the terms of the
34 account or plan, distribution of all or a part of the funds would
35 then be mandatory.

36 (g) Wages or salaries that have remained unclaimed by the
37 owner for more than seven years after the wages or salaries
38 become payable.

(h) For purposes of this section “service charges” means service charges imposed because of the inactivity contemplated by this section.

SEC. 2. Section 1513.5 of the Code of Civil Procedure is amended to read:

1513.5. (a) Except as provided in subdivision (c), if the holder has in its records an address for the apparent owner, which the holder’s records do not disclose to be inaccurate, every banking or financial organization shall make reasonable efforts to notify by mail any customer that the customer’s deposit, account, shares, or other interest in the banking or financial organization will escheat to the state pursuant to subdivision (a) or (b) of Section 1513. The holder shall give notice either:

(1) ~~Not~~ *Three times, the first at not less than two years nor more than two and one-half years, the second at not less than four years nor more than four and one-half years, and the third at not less than six years nor more than six and one-half years* after the date of last activity by, or communication with, the owner with respect to the account, deposit, shares, or other interest, as shown on the record of the financial organization.

(2) Not less than six nor more than 12 months before the time the account, deposit, shares, or other interest becomes reportable to the Controller in accordance with this chapter.

(b) The notice required by this section shall specify the time that the deposit, account, shares, or other interest will escheat and the effects of escheat, including the necessity for filing a claim for the return of the deposit, account, shares, or other interest. The face of the notice shall contain a heading centered at the top of the notice in at least 14-point bold type in a legible font that reads as follows: **YOUR UNCLAIMED PROPERTY MAY ESCHATEAT BE TRANSFERRED TO THE STATE**. The notice required by this section shall, in bold or in a font a minimum of two points larger than the rest of the notice and exclusive of the heading, (1) specify that since the date of last activity, or for the last *two, four, or* six years, there has been no customer activity on the deposit, account, shares, or other interest; (2) identify the deposit, account, shares, or other interest by number or identifier; (3) indicate that the deposit, account, shares, or other interest is in danger of escheating to the state; and (4) specify that the California Unclaimed Property Law requires banks, banking

1 organizations, and financial organizations to transfer funds of a
2 deposit, account, shares, or other interest if it has been inactive
3 for seven years. It shall also include a form, as prescribed by the
4 Controller, by which the customer may declare an intention to
5 maintain the deposit, account, shares, or other interest. If that
6 form is filled out, signed by the customer, and returned to the
7 banking or financial organization, it shall satisfy the requirement
8 of paragraph (3) of subdivision (a) or paragraph (3) of
9 subdivision (b) of Section 1513. The banking or financial
10 organization may impose a service charge on the deposit,
11 account, shares, or other interest for this notice in an amount not
12 to exceed the administrative cost of mailing the notice and form
13 and in no case to exceed two dollars (\$2).

14 (c) Notice as provided by subdivisions (a) and (b) shall not be
15 required for deposits, accounts, shares, or other interests of less
16 than fifty dollars (\$50), and no service charge may be made for
17 notice on these items.

18 (d) ~~From~~ *At any time other than as described in paragraph (1)*
19 *or (2) of subdivision (a), from* the date of last activity by or
20 communication with the owner until the holder transfers the
21 deposit, account, shares, or other interest to the Controller, the
22 holder may give *additional* notice as described in subdivision (b).

23 SEC. 3. Section 1514 of the Code of Civil Procedure is
24 amended to read:

25 1514. (a) The contents of any safe deposit box or any other
26 safekeeping repository, held in this state by a business
27 association, escheat to this state if unclaimed by the owner for
28 more than seven years from the date on which the lease or rental
29 period on the box or other repository expired, or from the date of
30 termination of any agreement because of which the box or other
31 repository was furnished to the owner without cost, whichever
32 last occurs.

33 (b) If a business association has in its records an address for an
34 apparent owner of the contents described in this section and the
35 business association's records do not disclose the address to be
36 inaccurate, the business association shall make reasonable efforts
37 to notify the owner by mail that the owner's contents will escheat
38 to the state pursuant to this section. The business association
39 shall give notice either:

1 (1) ~~Not~~ *Three times, the first at not less than two years nor*
2 *more than two and one-half years, the second at not less than*
3 *four years nor more than four and one-half years, and the third*
4 *at not less than six years nor more than six and one-half years*
5 *after the date on which the lease, rental period, or termination of*
6 *agreement on the box or other repository expired.*

7 (2) Not less than six nor more than 12 months before the time
8 the contents become reportable to the Controller in accordance
9 with this chapter.

10 (c) The notice required by this section shall specify the time
11 that the contents will escheat and the effects of escheat, including
12 the necessity for filing a claim for the return of the contents. The
13 face of the notice shall contain a heading centered at the top of
14 the notice in at least 14-point bold type in a legible font that reads
15 as follows: **YOUR UNCLAIMED PROPERTY MAY**
16 **ESCHEAT BE TRANSFERRED TO THE STATE.** The notice
17 required by this section shall, in bold or in a font a minimum of
18 two points larger than the rest of the notice and exclusive of the
19 heading, (1) specify that since the date on which the lease, rental
20 period, or termination of agreement on the box or other
21 repository expired, or for the last *two, four, or* six years, there has
22 been no customer activity on the box or other repository; (2)
23 identify the box or other repository by number or identifier; (3)
24 indicate that the contents in the box or other repository are in
25 danger of escheating to the state and may be subject to sale at
26 auction; and (4) specify that the California Unclaimed Property
27 Law requires business associations to report the contents of the
28 box or other repository to the Controller if it has been unclaimed
29 for seven years. It shall also include a form, as prescribed by the
30 Controller, by which the owner may confirm the owner's current
31 address. If that form is filled out, signed by the owner, and
32 returned to the business association, it shall be deemed that the
33 contents remain claimed and recommences the escheat period.

34 (d) ~~From~~ *At any time other than as described in paragraph (1)*
35 *or (2) of subdivision (a), from* the date of last activity by or
36 communication with the owner until the business association
37 transfers the contents of a safe deposit box or other safekeeping
38 repository to the Controller, the business association may give
39 *additional* notice as described in subdivision (c).

1 SEC. 4. Section 1515 of the Code of Civil Procedure is
2 amended to read:

3 1515. (a) Subject to Section 1510, funds held or owing by a
4 life insurance corporation under any life or endowment insurance
5 policy or annuity contract ~~which~~ *that* has matured or terminated
6 escheat to this state if unclaimed and unpaid for more than seven
7 years after the funds became due and payable as established from
8 the records of the corporation.

9 (b) If a person other than the insured or annuitant is entitled to
10 the funds and no address of that person is known to the
11 corporation or if it is not definite and certain from the records of
12 the corporation what person is entitled to the funds, it is
13 presumed that the last known address of the person entitled to the
14 funds is the same as the last known address of the insured or
15 annuitant according to the records of the corporation. This
16 presumption is a presumption affecting the burden of proof.

17 (c) A life insurance policy not matured by actual proof of the
18 death of the insured according to the records of the corporation is
19 deemed to be matured and the proceeds due and payable if:

20 (1) The insured has attained, or would have attained if he or
21 she were living, the limiting age under the mortality table on
22 which the reserve is based.

23 (2) The policy was in force at the time the insured attained, or
24 would have attained, the limiting age specified in paragraph (1).

25 (3) Neither the insured nor any other person appearing to have
26 an interest in the policy has, within the preceding seven years,
27 according to the records of the corporation (i) assigned,
28 readjusted, or paid premiums on the policy, (ii) subjected the
29 policy to loan, or (iii) corresponded in writing with the life
30 insurance corporation concerning the policy.

31 (d) Any funds otherwise payable according to the records of
32 the corporation are deemed due and payable although the policy
33 or contract has not been surrendered as required.

34 SEC. 5. Section 1516 of the Code of Civil Procedure is
35 amended to read:

36 1516. (a) Subject to Section 1510, any dividend, profit,
37 distribution, interest, payment on principal, or other sum held or
38 owing by a business association for or to its shareholder,
39 certificate holder, member, bondholder, or other security holder,
40 or a participating patron of a cooperative, who has not claimed it,

1 or corresponded in writing with the business association
2 concerning it, within seven years after the date prescribed for
3 payment or delivery, escheats to this state.

4 (b) Subject to Section 1510, any intangible interest in a
5 business association, as evidenced by the stock records or
6 membership records of the association, escheats to this state if (1)
7 the interest in the association is owned by a person who for more
8 than seven years has neither claimed a dividend or other sum
9 referred to in subdivision (a) nor corresponded in writing with
10 the association or otherwise indicated an interest as evidenced by
11 a memorandum or other record on file with the association, and
12 (2) the association does not know the location of the owner at the
13 end of the seven-year period. With respect to the interest, the
14 business association shall be deemed the holder.

15 (c) Subject to Section 1510, any dividends or other
16 distributions held for or owing to a person at the time the stock or
17 other security to which they attach escheats to this state also
18 escheat to this state as of the same time.

19 (d) (1) With respect to any interest that may escheat pursuant
20 to subdivision (b), the business association shall make reasonable
21 efforts to notify the owner by mail that the owner's interest in the
22 business association will escheat to the state. The notice shall be
23 given not less than 6 nor more than 12 months before the time the
24 interest in the business association becomes reportable to the
25 Controller in accordance with this chapter. From the date of last
26 activity by or communication with the owner until the business
27 association transfers the interest to the Controller, the business
28 association may give *additional* notice as described in this
29 subdivision.

30 (2) The notice required by this subdivision shall specify the
31 time that the interest will escheat and the effects of escheat,
32 including the necessity for filing a claim for the return of the
33 interest. The face of the notice shall contain a heading centered at
34 the top of the notice in at least 14-point bold type in a legible font
35 that reads as follows: **YOUR UNCLAIMED PROPERTY MAY**
36 **~~ESCHEAT~~ BE TRANSFERRED TO THE STATE.** The notice
37 required by this section shall, in bold or in a font a minimum of
38 two points larger than the rest of the notice exclusive of the
39 heading, (1) specify that since the date of last activity, or for the
40 last *two, four, or* six years, there has been no customer activity on

1 the deposit, account, shares, or other interest; (2) identify the
2 deposit, account, shares, or other interest by number or identifier;
3 (3) indicate that the deposit, account, shares, or other interest is
4 in danger of escheating to the state; and (4) specify that the
5 California Unclaimed Property Law requires banks, banking
6 organizations, and financial organizations to transfer funds of a
7 deposit, account, shares, or other interest if it has been inactive
8 for seven years. It shall also include a form, as prescribed by the
9 Controller, by which the owner may confirm the owner's current
10 address. If that form is filled out, signed by the owner, and
11 returned to the holder, it shall be deemed that the business
12 association knows the location of the owner.

13 SEC. 6. Section 1518 of the Code of Civil Procedure is
14 amended to read:

15 1518. (a) All tangible personal property located in this state
16 and, subject to Section 1510, all intangible personal property, and
17 the income or increment on such tangible or intangible property,
18 held in a fiduciary capacity for the benefit of another person
19 escheats to this state if after it becomes payable or distributable,
20 the owner has not, within a period of seven years, increased or
21 decreased the principal, accepted payment of principal or
22 income, corresponded in writing concerning the property, or
23 otherwise indicated an interest as evidenced by a memorandum
24 or other record on file with the fiduciary.

25 (b) Funds in an individual retirement account or a retirement
26 plan for self-employed individuals or similar account or plan
27 established pursuant to the internal revenue laws of the United
28 States or of this state are not payable or distributable within the
29 meaning of subdivision (a) unless, under the terms of the account
30 or plan, distribution of all or part of the funds would then be
31 mandatory.

32 (c) For the purpose of this section, ~~when~~ *if* a person holds
33 property as an agent for a business association, he or she is
34 deemed to hold the property in a fiduciary capacity for the
35 business association alone, unless the agreement between him or
36 her and the business association clearly provides the contrary.
37 For the purposes of this chapter, if a person holds property in a
38 fiduciary capacity for a business association alone, he or she is
39 the holder of the property only insofar as the interest of the
40 business association in the property is concerned and the

1 association is deemed to be the holder of the property insofar as
2 the interest of any other person in the property is concerned.

3 SEC. 7. Section 1519 of the Code of Civil Procedure is
4 amended to read:

5 1519. All tangible personal property located in this state, and,
6 subject to Section 1510, all intangible personal property, held for
7 the owner by any government or governmental subdivision or
8 agency, that has remained unclaimed by the owner for more than
9 seven years escheats to this state.

10 SEC. 8. Section 1520 of the Code of Civil Procedure is
11 amended to read:

12 1520. (a) All tangible personal property located in this state
13 and, subject to Section 1510, all intangible personal property,
14 except property of the classes mentioned in Sections 1511, 1513,
15 1514, 1515, 1515.5, 1516, 1517, 1518, 1519, and 1521, including
16 any income or increment thereon and deducting any lawful
17 charges, that is held or owing in the ordinary course of the
18 holder's business and has remained unclaimed by the owner for
19 more than seven years after it became payable or distributable
20 escheats to this state.

21 (b) Except as provided in subdivision (a) of Section 1513.5
22 and subdivision (d) of Section 1516, if the holder has in its
23 records an address for the apparent owner of property valued at
24 fifty dollars (\$50) or more, which the holder's records do not
25 disclose to be inaccurate, the holder shall make reasonable efforts
26 to notify the owner by mail that the owner's property will escheat
27 to the state pursuant to this chapter. The notice shall be mailed
28 not less than six nor more than 12 months before the time when
29 the owner's property held by the business becomes transferable
30 to the Controller in accordance with this chapter. From the date
31 of last activity by or communication with the owner until the
32 holder transfers the property to the Controller, the holder may
33 give *additional* notice as described in this subdivision. The notice
34 required by this subdivision shall specify the time when the
35 property will escheat and the effects of escheat, including the
36 need to file a claim in order for the owner's property to be
37 returned to the owner. The face of the notice shall contain a
38 heading centered at the top of the notice in at least 14-point bold
39 type in a legible font that reads as follows: YOUR
40 UNCLAIMED PROPERTY MAY—ESCHEAT BE

TRANSFERRED TO THE STATE. The notice required by this section shall, in bold or in a font a minimum of two points larger than the rest of the notice and exclusive of the heading, (1) specify that since the date of last activity, or for the last *two, four, or six* years, there has been no customer activity on the deposit, account, shares, or other interest; (2) identify the deposit, account, shares, or other interest by number or identifier; (3) indicate that the deposit, account, shares, or other interest is in danger of escheating to the state; and (4) specify that the California Unclaimed Property Law requires banks, banking organizations, and financial organizations to transfer funds of a deposit, account, shares, or other interest if it has been inactive for seven years. It shall also include a form, as prescribed by the Controller, by which the owner may confirm the owner's current address. If that form is filled out, signed by the owner, and returned to the holder, it shall be deemed that the account, or other device in which the owner's property is being held, remains currently active and recommences the escheat period.

(c) For purposes of this section, "lawful charges" means charges which are specifically authorized by statute, other than the Unclaimed Property Law, or by a valid, enforceable contract.

SEC. 9. Section 1521 of the Code of Civil Procedure is amended to read:

1521. (a) Except as provided in subdivision (b), and subject to Section 1510, all employee benefit plan distributions and any income or other increment thereon escheats to the state if the owner has not, within seven years after it becomes payable or distributable, accepted the distribution, corresponded in writing concerning the distribution, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the fiduciary of the trust or custodial fund or administrator of the plan under which the trust or fund is established. As used in this section, "fiduciary" means any person exercising any power, authority, or responsibility of management or disposition with respect to any money or other property of a retirement system or plan, and "administrator" means the person specifically so designated by the plan, trust agreement, contract, or other instrument under which the retirement system or plan is operated, or if none is designated, the employer.

1 (b) Except as provided in subdivision (c), an employee benefit
2 plan distribution and any income or other increment thereon shall
3 not escheat to this state if, at the time the distribution shall
4 become payable to a participant in an employee benefit plan, the
5 plan contains a provision for forfeiture or expressly authorizes
6 the administrator to declare a forfeiture of a distribution to a
7 beneficiary thereof who cannot be found after a period of time
8 specified in the plan, and the trust or fund established under the
9 plan has not terminated prior to the date on which the distribution
10 would become forfeitable in accordance with the provision.

11 (c) A participant entitled to an employee benefit plan
12 distribution in the form of residuals shall be relieved from a
13 forfeiture declared under subdivision (b) upon the making of a
14 claim therefor.